



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2017-0171]

Evaluating Deviations and Reporting Defects and Noncompliance

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG-1291, "Evaluating Deviations and Reporting Defects and Noncompliance Under 10 CFR Part 21." This DG describes methods that the NRC staff considers acceptable for complying with the provisions of the regulations.

DATES: Submit comments by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specified subject):

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for

Docket ID **NRC-2017-0171**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: TWFN-8-D36M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Paul Prescott, Office of New Reactors, telephone: 301-415-6263; e-mail: Paul.Prescott@nrc.gov, and Stephen Burton, Office of Nuclear Regulatory Research, telephone: 301-415-7000; e-mail: Stephen.Burton@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID **NRC-2017-0171** when contacting the NRC about the availability of information regarding this action. You may obtain publically-available information related to this action, by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2017-0171**.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The DG is available in ADAMS under Accession No. ML16165A298.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID **NRC-2017-0171** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at <http://www.regulations.gov> as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment

submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a draft regulatory guide in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled, "Evaluating Deviations and Reporting Defects and Noncompliance Under 10 CFR part 21," is a proposed new guide temporarily identified by its task number, DG-1291. The DG-1291 describes methods that the NRC staff considers acceptable for complying with the provisions of part 21 of title 10 of the *Code of Federal Regulations* (10 CFR), "Reporting of Defects and Noncompliance."

The DG-1291 provides licensees and applicants with formal guidance for an acceptable method of evaluating and reporting defects under 10 CFR part 21. This new guidance will aid in minimizing compliance challenges to licensees and vendors that have been identified through inspection activities. Specifically, this DG approves NRC licensees' use of a method of evaluating and reporting defects described in NEI 14-09, "Guidelines for Implementations of 10 CFR part 21 Reporting of Defects and Noncompliance," Revision 1 (ADAMS Accession No. ML16054A825).

III. Specific Request for Comments

The NRC seeks comments on DG-1291, "Evaluating Deviations and Reporting Defects

and Noncompliance Under 10 CFR part 21,” and requests feedback from commenters about potential regulatory positions that would: (1) not approve alternative methods for addressing types and locations of postings required under § 21.6 of the regulations in this part, Section 206 of the Energy Reorganization Act of 1974, and the procedures adopted pursuant to the regulations in part 21; and (2) describe training that should be provided for the implementation of procedures adopted pursuant to the regulations.

1. The Nuclear Energy Institute (NEI) developed guidance on implementing the regulatory requirements in 10 CFR part 21. The guidance is contained in NEI 14-09, “Guidelines for Implementation of 10 CFR part 21 Reporting of Defects and Noncompliance,” Revision 1 dated August 2014. The guidance in NEI 14-09 interprets NRC’s regulations to allow postings to be hard copies, digital copies, or a combination of both. In addition, links to electronic postings may be identified on “sites” commonly frequented by workers during the performance of work subject to 10 CFR part 21.

The staff position regarding electronic versions of the documents required by 10 CFR part 21 was provided in “NRC Responses to 10 CFR part 21 and Fuel Cycle Facility Questions Received during the Vendor Workshop on New Reactor Construction,” in December 2008 (ADAMS Accession No. ML092660129). Question 27 asked, “What are the posting requirements for work at home?” The NRC staff’s response stated, “Section 21.6 requires that every premise in the U.S. where activities subject to part 21 are conducted, posts current copies of (1) the regulations in part 21; (2) Section 206 of the Energy Reorganization Act of 1974; and (3) company procedures adopted pursuant to the regulations in part 21 must be posted in a

conspicuous location. If work subject to part 21 is being done at a residence, then that location constitutes a premise for which the relevant notifications must be posted under § 21.6. If posting of the regulations is not practicable at the residence, then the staff considers access to part 21, Section 206, and the company's applicable part 21 reporting procedure, via the internet by 'work at home' personnel to be adequate."

The NRC is seeking input regarding the adequacy of alternative posting methods and what additional clarity could be provided in the regulatory guide for addressing alternative types and locations of postings required under § 21.6 for the regulations in this part, Section 206 of the Energy Reorganization Act of 1974, and the procedures adopted pursuant to the regulations in this part regardless of the work location.

2. The guidance in NEI 14-09 states, "10 CFR part 21 does not establish requirements for training of personnel involved in 10 CFR part 21 activities. However, as a good practice, appropriate familiarization and training in the requirements of 10 CFR part 21 should be provided initially, and as appropriate on an ongoing basis, as necessary. As another good practice, an organization should designate individuals capable of assisting the staff in part 21 evaluation, reporting requirements and training requirements."

The staff position regarding training of personnel involved in 10 CFR part 21 activities was provided in NUREG-0302, "Remarks Presented (Questions/Answers Discussed) at Public Regional Meetings to Discuss Regulations (10 CFR part 21) for

Reporting of Defects and Noncompliance,” Revision 1, dated July 1977 (ADAMS Accession No. ML062080399). Question 10 on page 21.61-4 asked, “Can an organization be cited under part 21 for not conducting training on procedures required by part 21?” The NRC staff’s response stated, “part 21 does not include a requirement for training.” However, the NRC’s current position is that training of personnel involved in 10 CFR part 21 activities would be covered under 10 CFR 50.120, “Training and qualification of nuclear power plant personnel.”

The NRC is seeking input regarding the position proposed in DG-1291 which approves NEI 14-09 for use because 10 CFR part 21 has no specific requirements for training and the regulation does not provide guidance requiring training of personnel.

3. Are there topics that are not addressed in the RG that should be addressed?
Conversely, are there topics addressed in the RG that need not be addressed?

IV. Backfitting and Issue Finality

This DG approves a method for evaluating and reporting defects under 10 CFR part 21. Issuance of this DG, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and would not otherwise be inconsistent with the issue finality provisions in

10 CFR part 52. As discussed in the “Implementation” section of this DG, the NRC has no current intention to impose this guide, if finalized, on holders of current operating licenses or combined licenses.

Dated at Rockville, Maryland, this 26th day of July, 2017.

For the Nuclear Regulatory Commission.

Thomas H. Boyce, Chief,
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